

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

VARIETY STORES, INC.,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 5:14-cv-00217
)	
WAL-MART STORES, INC.,)	JURY TRIAL DEMANDED
)	
Defendant.)	
)	

**PLAINTIFF VARIETY STORES, INC.'S
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Plaintiff Variety Stores, Inc. (“Variety”) hereby moves the Court pursuant to Rule 56 (a) of the Federal Rules of Civil Procedure for partial summary judgment in its favor on its Claim for trademark infringement and unfair competition on the grounds that Defendant Wal-Mart Stores, Inc. (“Wal-Mart”) adopted a trademark, the dominant part of which is identical to Variety’s incontestable trademark, and used the trademark on goods in a way likely to cause consumer confusion. Variety seeks an order entering judgment against Wal-Mart on the issue of its liability for trademark infringement and unfair competition and enjoining Wal-Mart’s unlawful conduct, reserving for trial issues relating to additional remedies to which Variety is entitled. A Memorandum in support of this Motion and associated exhibits are submitted herewith for the consideration by the Court.

This the 4th day of May, 2015.

Respectfully submitted,

/s/ W. Thad Adams, III
Attorney for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

This the 4th day of May, 2015.

Respectfully submitted,

/s/ W. Thad Adams, III
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